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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,003	07/27/2005	Nuno Filipe Martins Silva	03920/0202503-US0	9427
7278	7590	08/15/2007	EXAMINER	
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			NOLAND, THOMAS	
			ART UNIT	PAPER NUMBER
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			08/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/527,003	SILVA ET AL.	
	Examiner Thomas P. Noland	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 July 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 20050607.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

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1. The preliminary amendment filed March 3, 2005 has been entered.
2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. The abstract of the disclosure is objected to because it should be on a single sheet instead of two and not include other application material. Correction, preferably by Applicant, is required. See MPEP § 608.01(b).
4. Claims 1-2 and 22 are objected to because of the following informalities: except for "An" in line 1 of each of claims 1-2 and 22 all other capitalized words should be lower case. Appropriate correction is required.
5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 25 provides for the use of the system of claim 1 in the tire production industry, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass and it is therefore rejected under 35 U.S.C. 112(2). A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 25 also is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

8. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For clarity or because of lack of proper antecedent in claim 1: in line 3 " the " should be deleted and the comma should be replaced with - - - and - - -; in line 4 before the semicolon - - - for the modules - - - should be inserted; in line 6 " the overlapping " should be replaced with - - - overlapping - - -; in line 8 " the decision " should be replaced with - - - a decision - - - and " on the " should be replaced with - - - on - - - and in line 9 " the user; " should be replaced with - - - a user and - - -. In claim 2, line 4 " the

entrance of ambient light; " should be replaced with - - entrance of ambient light and - -. In lines 2-3 of each of claims 12-14 there is no proper antecedent for " the casing that hinders the entrance of ambient light ". In line 3 of each of claims 12 and 13 " the " should be deleted. In claim 12, line 4 " the walls of the referred " should be replaced with - - - walls of the - - -. In claim 14: in line 3 there is no antecedent for " the ply circulation slot " and in line 4 it is unclear what is meant by " any other similar material". In claim 15: there is no proper antecedent for " the background surface (10) " in line 2; there is no antecedent for " the referred camera " in line 3 and in line 4 " the retro-reflection " should be replaced with - - - retro-reflection - - - and " referred " and " mentioned " should be deleted. In claim 16: in line 2 " the detection " should be replaced with - - - detection - - - ; in line 3 the nonlimitation " , either mechanic, electronic, optoelectric or another type, " should be deleted and in line 4 "to synchronise the " should be replaced with - - - synchronizing - - -, " the passage " should be replaced with - - - passage - - - and there is no proper antecedent for " the shutters " or " the video cameras ". In claim 17 in line 2 there is no proper antecedent for " the background surface " and " on the " should be replaced with - - - on an - - - and in line 3 there is no antecedent for "the ply circulation slot ". In claim 18 it is unclear what is meant by line 4 since it appears to be claiming all possibilities of an inherent characteristic and in line 5 the semicolon should be replaced with - - - and - - -. In claim 19, line 3 " the " should be replaced with - - - a - - -. In claim 21: there is no antecedent for " the image acquisition module " in line 3; it having " the support, fixation and

adjustment element " of lines 2-3 and lines 3-5 " assembly of . . . automatically. " should be replaced with - - - assembly. - - - since lines 4-5 appear to be setting forth all possibilities of a mechanical assembly. In claim 22 in line 5 the semicolon should be replaced with - - - and - - - and in line 7 there is no antecedent for " the rubber " or " the operator ", it is unclear if the operator is the same or different than the user of claim 1, and in any event the phrase ", by the operator or automatically " should apparently be deleted since it covers all possibilities of adjustment. In claim 23 in line 4 it is unclear what is meant by " criteria ", i.e., how are criteria different than parameters and if not different how does claim 23 further limit claim 1 and in lines 4-5 the for example limitation should either be deleted or positively recited. In claim 24, line 3 it is unclear what is meant by " the remaining production equipment " since claim 1 appears to indicate that the quality control program is contained in other than production equipment and is not per se installed in production equipment and " the interface " should be replaced with - - - an interface - - -.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show web or tire monitors but neither they nor any of the other prior art of record showed or would have made obvious an automatic control and monitoring system for splice overlapping tolerance in textile ply using a quality control compute program with a morphological analysis of image for detection and recognition of overlapping of textile ply, detection and counting of threads

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or cords in the overlap area in combination with other modules and physical elements structured and interacting as set forth in claim 1 as best understood.

Byskov et al US 7,083,082, not prior art, discloses monitoring equipment but does not claim such a system.

10. Claims 1-25, as best understood, would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (571) 272-2202. The examiner can normally be reached on weekdays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached on (571) 272-2208.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2800 Customer Service at (571) 272-2815.

Thomas P. Noland  
Primary Examiner  
Art Unit 2856

Aug. 9, 2007

